

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-27 and 35-36 are rejected under 35 U.S.C. 103(a) as obvious over U.S. Pub. No. 5,065,485 to Zocco.

Claims 14 and 16, Zocco discloses a mattress comprising a substantially rigid bottom panel/platform (10) consisting of foam; a perimeter sidewall (1) joined to the bottom panel, said bottom panel and perimeter sidewall defining an interior cavity; and an innercore having a bottom surface 3 disposed within the cavity, wherein said portion of the bottom surface of the bottom surface of the innercore is joined to the bottom panel by an adhesive wherein the adhesive applied in a region proximate to the perimeter of the side wall (col. 3-4 lines 64-68 & 1-2). Zocco is silent to a remaining portion capable of being substantially in contact with the bottom surface yet unattached to the bottom panel. It is considered an obvious modification to merely select a portion of the bottom panel that does not have adhesive and it would have been

obvious for one having ordinary skill in the art at the time of the invention to merely apply adhesive along an interior periphery of the inside surface of the filling material yielding predictable results that provide a select region of attachment around the perimeter. The equivalency of glue and a strip of adhesive has been well established and it would have been obvious for one having ordinary skill in the art at the time of the invention to employ a strip of adhesive yielding predictable results to provide an equivalent means of adhering the inside surface of the filling material.

Claims 15 and 24, wherein the inner core is a fabric-encased spring coil (4,5).

Claim 17, wherein the platform comprises a plurality of layers (fig. 1).

Claim 18, wherein the mattress is a two sided mattress, with the platform capable of forming a second sleeping surface.

Claims 19 and 22, Zocco discloses all of the Applicant's claimed limitations except for the platform comprises a high density polyurethane foam having a density of approximately 1.85 lbs./cu.ft. and a firmness above 30 ILD. It is considered an obvious modification to select from a plethora of known materials with densities and firmness within a range of values and it would have been obvious for one having ordinary skill in the art at the time of the invention to select the foam with the density and firmness as stated above in order to provide suitable support for the user.

Claim 20, further comprising an upholstery layer 101 disposed over a top surface of the innercore.

Claim 21, wherein the perimeter sidewall is made of foam (col. 3 lines 50-52).

Claim 23, wherein the bottom panel forms a substantially rigid base platform that comprises a layer made of foam and providing support to the innercore (col. 3 lines 56-63).

Claim 25, wherein the innercore comprising a block of resilient foam 3 (col. 3 lines 63-66).

Claim 26, wherein the perimeter sidewall is attached to a peripheral region of a major surface of the bottom panel by an adhesive (col. 3 lines 53-55).

Claim 27, wherein the perimeter sidewall comprises a plurality of sidewall sections (1a,1b).

Claims 35-36, Zocco discloses the mattress, but is silent to the bottom panel or the platform comprising wood. Selecting from a plethora of known materials is considered an obvious modification and it would have been obvious for one having ordinary skill in the art at the time of the invention to employ wood yielding predictable results that provide an equivalent alternative material suitable for the panel or platform of the mattress of Zocco.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,065,485 to Zocco in view of U.S. Pat. No. 6,263,533 to Dimitry et al.

Claim 28, Zocco discloses the Applicant's claim limitations except for a wire. Dimitry discloses border wires (24,26). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a wire as taught by Dimitry in order to create a frame about the upper and lower edges of the inner spring (col. 3 lines 34-37).

Response to Arguments

Applicant's arguments filed 8/9/11 have been fully considered but they are not persuasive. As previously stated, Zocco explicitly recites that "the first layer of filling material (3) may be glued to the inside surface of the bottom panel (10)". Zocco does not disclose any other member of the mattress being glued to the bottom panel (10)(col. 3-4 lines 64-68 & 1-2). Zocco states that the perimeter side wall members (1a,1b) are only glued together, and does not disclose adhering the side wall members to the bottom panel. The side wall members are not secured to the bottom panel as mischaracterized by the Applicant and leaves a portion lying beneath the side wall members of the bottom surface without adhesive. Therefore, Zocco meets the Applicant's claim language "wherein said portion of the bottom surface of the bottom surface of the innercore is joined to the bottom panel by an adhesive wherein the adhesive applied in a select region proximate to the perimeter of the side wall. Furthermore, the Applicant's own disclosure establishes the equivalency of glue and a strip of adhesive (paragraph 19). One having ordinary skill in the art would not have

found it novel to merely substitute an equivalent means of adhering the inside surface of the bottom panel. With regards to a remaining portion underneath the bottom panel being substantially in contact with the bottom surface yet unattached by at least an adhesive to the bottom panel. PRINCIPLES OF LAW "Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007). "If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability." *Id.* at 1740. One having ordinary skill in the art would not have found it novel to merely apply adhesive along an interior periphery of the inside surface of the filling material.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK CONLEY whose telephone number is (571)272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PETER CUOMO can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FREDRICK C CONLEY/
Primary Examiner, Art Unit 3673